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FEDERAL DEPOSIT INSURANCE CORPORATION, AS

RECEIVER FOR SILICON VALLEY BANK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
(OAKLAND DIVISION)

MICHAEL B. ROTHENBERG,
an individual,

Plaintiff and Cross-Defendant,

vs.

FEDERAL DEPOSIT INSURANCE
CORPORATION, as receiver for Silicon
Valley Bank, a corporation,

Defendant and Cross-Complainant.

Case No. 23-cv-01603-JST

**DEFENDANT AND CROSS-
COMPLAINANT FEDERAL DEPOSIT
INSURANCE CORPORATION, AS
RECEIVER FOR SILICON VALLEY
BANK'S CASE MANAGEMENT
STATEMENT**

CMC Date: October 8, 2024

Time: 2:00 p.m.

Place: Via Zoom

Honorable Jon S. Tigar

Pursuant to the Clerk's Notice [Dkt. 42], Defendant and Cross-Complainant Federal Deposit Insurance Corporation, as receiver for Silicon Valley Bank ("Defendant/Cross-Complainant" or "FDIC-R") submits this Case Management Statement in advance of the Further Case Management Conference scheduled in this matter for October 8, 2024 at 2:00 p.m.

As an initial matter, the FDIC-R provides the following update to the Court regarding anticipated motion practice in this action. The FDIC-R plans to file one or both of the following motions: (1) a motion for sanctions, including but not limited to terminating sanctions, pursuant to Rule 37 for Plaintiff and Cross-Defendant Michael Rothenberg's ("Mr. Rothenberg") failure to comply with Court orders regarding discovery; and (2) a motion for summary judgment or partial summary judgment pursuant to Rule 56, based in part on the preclusive effect of Mr. Rothenberg's prior conviction for the same fraudulent conduct at issue in the FDIC-R's claims here. *See Sec. & Exch. Comm'n v. Stein*, 906 F.3d 823, 828 (9th Cir. 2018) (discussing preclusive effect of criminal convictions in related civil proceedings).

In addition, Mr. Rothenberg's sentencing hearing in the related criminal matter (*USA v. Rothenberg*, Case No. 4:20-cr-00266-JST) was continued from September 12, 2024 to November 8, 2024. Accordingly, the FDIC-R respectfully requests that this Court continue the Case Management Conference to a date after November 8, 2024 so that the Parties can discuss with the Court the effect of Mr. Rothenberg's sentencing on this matter. The FDIC-R has concurrently filed an administrative motion requesting this continuance. [See Dkt. 43]

Dated: October 1, 2024

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: /s/ Laura C. Hurtado

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of October 2024, true and correct copy(ies) of the foregoing document(s) was served via email to the following party:

Michael B. Rothenberg
Email: mrothenberg@rothenberg.co
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Anna Lau